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2 Councilmember Anita Bonds


Councilmember Charles Allen

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5 Councilmember Mary M. Chen


Councilmember David Grosso

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8 Councilmember Kenyan R. McDuffie


Councilmember Brianne K. Nadeau

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11 Councilmember Robert C. White, Jr.

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17 A BILL

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22 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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27 To amend Subchapter I-B of Chapter 28 of Title 47 of the District of Columbia Official Code to
28 establish a uniform standard for occupational licensing boards to consider only pending
29 criminal accusations or prior convictions that are directly related to the occupation for
30 which the license is sought, as determined by enumerated factors, to require notice to and
31 an opportunity to respond with mitigating evidence for individuals who receive an adverse
32 decision based on their criminal history, and to require the Mayor to submit reports to the
33 Council with information about applications by individuals with criminal histories and
34 adverse decisions made by boards based on criminal histories; and to amend the Office of
35 the Deputy Mayor for Public Safety and Justice Establishment Act of 2011 to require the
36 Deputy Mayor for Public Safety and Justice to prepare and submit to the Mayor and
37 Council a report identifying the statutory and regulatory collateral consequences of
38 criminal histories in the District, along with recommendations for their mitigation or
39 elimination.

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41 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
42 act may be cited as the "Removing Barriers to Occupational Licensing for Returning Citizens
43 Amendment Act of 2019".

Sec. 2. Subchapter I-B of Chapter 28 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-2853.12 is amended as follows:

(1) Subsection (a)(1) is amended to read as follows:

“(1) Is not currently accused and has not been convicted of an offense that is directly related to the occupation for which the license is sought, pursuant to the determination made in § 47-2853.17(c-1):”.

(2) A new section (n) is added to read as follows:

“(n) A person may petition the board at any time, including before obtaining any required education or experience, for a determination as to whether the person’s criminal record would disqualify the person from obtaining a license pursuant to the determination made in section 514(f).”

(b) Section 47-2853.17 is amended as follows:

(1) Subsection (a) is amended as follows:

(A) The lead-in language is amended by striking the phrase “applicant or person” and inserting the word “person” in its place.

(B) Paragraph (2) is amended by striking the phrase “obtains, or attempts to obtain, a” and inserting the phrase “obtains a” in its place.

(C) Paragraph (5) is amended to read as follows:

“(5) Has a pending criminal accusation or conviction that is directly related to the occupation for which a license, registration, or certification is sought or for which the person is licensed, registered, or certified, pursuant to the determination made in subsection (c-1) of this section;”.

67 (2) A new subsection (a-1) is added to read as follows:

68 “(a-1) Each board, subject to the right of a hearing as provided by this subchapter, on an
69 affirmative vote of a majority of its members present and voting may take one or more of the
70 disciplinary actions provided in subsection (c-1) of this section against any applicant who
71 knowingly provides false or misleading information on or in support of an application or otherwise
72 fraudulently or deceptively attempts to obtain a license.”

73 (3) Subsection (c) is amended as follows:

74 (A) The lead-in language is amended by striking the phrase “an applicant,
75 licensee, or person” and inserting the phrase “a licensee or person” in its place.

76 (B) Paragraph (1) is amended to read as follows:

77 “(1) Deny an application for renewal.”.

78 (C) Paragraph (5) is amended by striking the phrase “any applicant, licensee
79 or” and insert the phrase “a licensee or person” in its place.

80 (4) Subsections (c-1) and (c-2) are redesignated as subsections (c-2) and (c-3).

81 (5) A new subsection (c-1) is added to read as follows:

82 “(c-1) Upon determination by a board that an applicant has committed an act described in
83 subsection (a-1) of this section, the board may direct the Mayor to:

84 “(1) Deny a license or certificate to an applicant; or

85 “(2) Impose a civil fine not to exceed \$5,000 for each violation by any applicant.”.

86 (6) The newly redesignated subsection (c-2) is amended to read as follows:

87 “(c-2) The board regulating the non-health occupation shall determine whether the pending
88 criminal accusation against or conviction of an applicant or person permitted by this subchapter to

89 practice a non-health occupation regulated by the board is directly related to the occupation for
90 which a license is sought only by considering the totality of the following factors:

91 “(1) Whether the elements of the offense or offenses are directly related to the
92 specific duties and responsibilities of the occupation;

93 “(2) Any evidence produced by the applicant, licensee, person certified, or person
94 permitted by this title to practice an occupation regulated by the board concerning their
95 rehabilitation and fitness, including:

96 “(A) Evidence as to whether the applicant, licensee, person certified, or
97 person permitted by this title to practice a non-health occupation regulated by the board has
98 recidivated;

99 “(B) Evidence showing compliance with all terms and conditions of
100 probation, supervised release, and parole;

101 “(C) Length of time that has elapsed since the offense was committed;

102 “(D) Age of the applicant at the time the offense was committed;

103 “(E) Circumstances related to the offense, including mitigating
104 circumstances;

105 “(F) Evidence of work history, particularly any training or work experience
106 related to the occupation;

107 “(G) Letters of reference; and

108 “(3) The District’s interest promoting employment opportunities for individuals
109 with prior contact with the criminal justice system.

110 (7) The newly redesignated subsection (c-3) is amended to read as follows:

111 “(c-3) The board regulating the non-health occupation shall not:

112 “(1) Inquire into an applicant’s criminal history on the application for a license
113 pursuant to this act;

114 “(2) Inquire into or consider an applicant’s criminal history until after the applicant
115 is found to be otherwise qualified for licensure pursuant to this act; or

116 “(3) Consider the following criminal history information of an applicant, licensee,
117 person certified, or person permitted by this title to practice a non-health occupation regulated by
118 the board in connection with a denial, suspension, or revocation of a license, registration, or
119 certification:

120 “(A) Non-conviction information, including information related to a
121 deferred sentencing agreement, participation in a diversion program, or an arrest not followed by
122 a conviction that is no longer pending;

123 “(B) A conviction that has been sealed, expunged, vacated, or pardoned;

124 “(C) A juvenile adjudication; or

125 “(D) A conviction or pending criminal accusation that is not directly related
126 to the occupation for which a license is sought or for which the person is licensed, registered, or
127 certified, as determined under subsection (c-2) of this section.

128 (4) New subsections (c-4) and (c-5) are added to read as follows:

129 “(c-4) If the board regulating the non-health occupation intends to deny, suspend, or revoke
130 a license, registration, or certification due to a conviction or pending criminal accusation that is
131 directly related to the occupation for which a license, registration, or certification is sought or for
132 which the licensee, registrant, or person certified is licensed, registered, or certified, the board shall
133 notify the applicant, licensee, registrant, or person certified, in writing, prior to its final decision,
134 with the following information:

135 “(1) The offense that forms the basis for the potential denial, suspension, or
136 revocation, and the rationale for deeming the offense directly related to the occupation for which
137 the license, registration, or certification is sought or for which the licensee, registrant, or person
138 certified, is licensed, registered, or certified;

139 “(2) A copy of any criminal history records on which the board relies;

140 “(3) A statement that the applicant, licensee, registrant, or person certified may
141 provide evidence of inaccuracies within the applicant’s criminal history records;

142 “(4) A description of additional information that the applicant, licensee, registrant,
143 or person certified may produce to demonstrate his or her rehabilitation and fitness; and

144 “(5) Information about the right to request a hearing under § 47-2853.22 and the
145 process for requesting a hearing.

146 “(c-5) By January 1 of each year, the Mayor shall submit a report to the Council including
147 the following information from the prior fiscal year for each board regulating a non-health
148 occupation:

149 “(1) The total number of applications received for each type of license, registration,
150 or certification;

151 “(2) The number of individuals with a criminal history who were successful in
152 obtaining a license, registration, or certification;

153 “(3) Information about the individuals with a criminal history who received a notice
154 of intent to deny, suspend, or revoke based on their criminal history, including how many
155 individuals received such notice, what criminal offenses were used as a basis for the adverse
156 decision, and the justification for use of criminal history information in the adverse decision;

“(4) The number of individuals with a criminal history who provided evidence of mitigation or rehabilitation in response to notices of intent to deny;

“(5) The number of individuals with a criminal history who appealed the final decision, as well as the outcomes of each appeal;

“(6) A description of how each board has facilitated access to licenses, registrations, and certifications for individuals with a criminal history, in light of the District’s public policy of promoting employment opportunities for individuals with prior contact with the criminal justice system.”.

(c) Section 47–2853.22 is amended by adding subsections (j) and (k) to read as follows:

“(j) After receiving a notice of potential denial, suspension, or revocation under section 47-2853.17(c-4), the applicant, licensee, registrant, or person certified shall have 30 business days to respond. The board regulating the non-health occupation shall have 30 business days to make its final decision based on an individualized assessment of the response provided by the applicant, licensee, registrant, or person certified. In making a final decision, the board may only consider a conviction of or pending criminal accusation against an applicant or person permitted by this subchapter to practice a non-health occupation regulated by the board is directly related to the occupation for which a license is sought, pursuant to subsection (c-2) of section 47-2853.17.

“(k) If the board regulating the non-health occupation makes a final decision to deny, revoke, or suspend a license, registration, or certificate, based on the determination that a conviction or pending criminal accusation is directly related to the occupation for which a license is sought or for which the person is licensed, registered, or certified, the board shall provide the applicant, licensee, registrant, or person certified, in writing, with the following:

179 “(1) The offense that forms the basis for the denial, suspension, or revocation, and
180 the rationale for deeming the conviction to be directly related to the occupation for which the
181 license, registration, or certification is sought or for which the licensee, registrant, or person
182 certified, is licensed, registered, or certified; and

183 “(2) The process for judicial review under § 47-2853.23.”.

184 Sec. 3. Section 3022(c) of the Office of the Deputy Mayor for Public Safety and Justice
185 Establishment Act of 2011, effective September 14, 2011 (D.C. Law 19-21; D.C. Official Code §
186 1-301.191(c)), is amended as follows:

187 (a) Paragraph (4) is amended by striking the phrase “public-safety issues” and inserting the
188 phrase “public safety issues” in its place.

189 (b) Paragraph (5) is amended as follows:

190 (1) Subparagraph (A) is amended as follows:

191 (A) Sub-subparagraph (iii) is amended by striking the phrase “Council;” and
192 inserting the phrase “Council; and” in its place.

193 (B) Sub-subparagraph (iv) is amended to read as follows:

194 “(iv) Office of Victim Services and Justice Grants.”.

195 (C) Sub-subparagraph (v) is repealed.

196 (2) Subparagraph (B) is amended by striking the phrase “programs; and” and
197 inserting the phrase “programs;” in its place.

198 (c) Paragraph (6)(G)(viii) is amended by striking the phrase “suspect.” and inserting the
199 phrase “suspect; and” in its place.

200 (d) A new paragraph (7) is added to read as follows:

201 “(7) By January 1, 2021, the Deputy Mayor for Public Safety and Justice shall
202 prepare and submit to the Mayor and Council a report identifying the statutory and regulatory
203 collateral consequences of criminal histories in the District of Columbia, along with
204 recommendations for their mitigation or elimination.”.

205 Sec. 4. Fiscal impact statement.

206 The Council adopts the fiscal impact statement in the committee report as the fiscal impact
207 statement required by section 4a of the General Legislative Procedures Act of 1975, approved
208 October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

209 Sec. 5. Effective date.

210 This act shall take effect following approval by the Mayor (or in the event of veto by the
211 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
212 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24,
213 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
214 Columbia Register.